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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,056	FREUDENRICH ET AL.	
	Examiner	Art Unit	
	Maureen C Donovan	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to \_\_\_\_\_.
2.  The allowed claim(s) is/are 1-6 and 10-13.
3.  The drawings filed on 29 October 2003 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date November 17, 2003
4.  Examiner's Comment Regarding Requirement for Deposit  
 of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
 Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Chad Walter on 09 November 2004.

Please amend the application as follows:

In the specification:

On page 3 of the specification, line 13, please insert after "fresh water" the number --- **24** ---in bold.

In the claims:

Please change claim 1 to read as the following:

A cook and soak process using at least one each kettle, soak tank, grain hopper, hydrosieve, hopper, and washer, said process comprising the steps of:

- a) placing at least one grain product into a kettle with an aqueous alkaline solution to form an alkaline mixture;
- b) heating said alkaline mixture to a predetermined temperature followed by cooling the cooked mixture with water and then separating said alkaline mixture into a supernate layer and a slurry layer;
- c) draining said slurry and maintaining substantially all said supernate in said kettle to be used with a next alkaline mixture;

- d) soaking said slurry in a soak tank;
- e) transporting said slurry to a hopper via a push water stream wherein said push water stream comprises recycled water from a collection tank and wherein said slurry is substantially drained of liquid and becomes substantially a grain;
- f) transporting said grain from said hopper to a hydrosieve;
- g) draining excess water from said grain;
- h) transporting said grain from said hydrosieve to a washer;
- i) washing said grain in said washer with a fresh wash water,
- j) draining said fresh wash water of step i) to said collection tank for recycle at step e).
- k) transporting said grain to a further process.

Please cancel claims 7,8,9 and 14.

2. The following is an examiner's statement of reasons for allowance:

The status of the application will thus be claims 1-7 and 10-13 as allowed. The claims as allowed encompass a nixtamalization process (steps a through k) with a conservation step (step c) to reuse the alkaline solution in multiple batches by separating the alkaline solution from the grain slurry in the cooking kettle and draining from the cooking kettle just the grain slurry, maintaining the supernate of alkaline solution in the cooking kettle to be used with the next processing batch. The closest prior art teaches nixtamalization processes wherein entire mixture from the cooker is sent to a dryer or washer and the

water is separated out and discarded or recycled back into the cooker through those processing steps (see Rodriguez, US2002/ 0168458 A1, Section 0027; Sunderland, US patent number 5,558,898, Column 4, lines 49-62; Rubio, US patent number 6,344,228, Column 3, lines 24-27; Wilkinson, US patent number 6,025,011, see Column 6, lines 20-68, Column 7, lines 1-15 and Kendall, US patent number 5,744,184, Column 3, lines 50-57). The claimed step of draining only the grain slurry from the cooking kettle and leaving the alkaline supernate in the kettle to be used with the next processing batch was not known in the closest prior art or even in the most recent prior art regarding grain processing. The claims as allowed are not anticipated and furthermore there is no suggesting in the prior art to modify the references to obtain the instantly claimed process.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen C Donovan whose telephone number is (571) 272-2739. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCD  
10 November 2004



KEITH HENDRICKS  
PRIMARY EXAMINER